

ORIGINAL

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH CRACCO,

4

PLAINTIFF,

5

6

-against-

Case No:

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1:14-CV-08235-PAC

8

9

THE CITY OF NEW YORK, Police Officer  
JONATHAN CORREA, Shield 7869, Transit  
Division District 4, and Police Officer  
JOHN DOE (a fictitious name),

10

11

DEFENDANTS.

12

13

DATE: May 11, 2016

14

TIME: 2:05 P.M.

15

16

DEPOSITION of a Non-Party

17

Witness, JARED SIPPEL, taken by the

18

Defendants, pursuant to a Notice and to the

19

Federal Rules of Civil Procedure, held at

20

the offices of the New York County,

21

District Attorney's Office, Special

22

Litigation Bureau, 80 Centre Street, New

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York, New York 10013, before Deborah

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Garzaniti, a Notary Public of the State of

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New York.

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A P P E A R A N C E S:

JAMES M. MALONEY, ESQ.  
Attorney for the Plaintiff  
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Port Washington, New York 11050  
BY: JAMES M. MALONEY, ESQ.

NEW YORK COUNTY  
DISTRICT ATTORNEY'S OFFICE  
SPECIAL LITIGATION BUREAU  
Attorneys for the Defendants  
80 Centre Street  
New York, New York 10013  
BY: ELIZABETH N. KRASNOW, ESQ.  
- and -  
PATRICIA J. BAILEY, ESQ.

\* \* \*

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## 2 F E D E R A L S T I P U L A T I O N S

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5 IT IS HEREBY STIPULATED AND AGREED by and  
6 between the counsel for the respective  
7 parties herein that the sealing, filing and  
8 certification of the within deposition be  
9 waived; that the original of the deposition  
10 may be signed and sworn to by the witness  
11 before anyone authorized to administer an  
12 oath, with the same effect as if signed  
13 before a Judge of the Court; that an  
14 unsigned copy of the deposition may be used  
15 with the same force and effect as if signed  
16 by the witness, 30 days after service of  
17 the original & 1 copy of same upon counsel  
18 for the witness.

19

20 IT IS FURTHER STIPULATED AND AGREED that  
21 all objections except as to form, are  
22 reserved to the time of trial.

23

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\* \* \* \*

25

1 J. SIPPEL

2 J A R E D S I P P E L, called as a  
3 witness, having been first duly sworn by a  
4 Notary Public of the State of New York, was  
5 examined and testified as follows:

6 EXAMINATION BY

7 MS. KRASNOW:

8 Q. Please state your name for the  
9 record.

10 A. Jared Sippel.

11 Q. What is your address?

12 A. 282 11th Avenue, apartment 408,  
13 New York, New York 10001.

14 Q. Hello. My name is Elizabeth  
15 Krasnow. We met off the record. I am an  
16 Assistant District Attorney here at the New  
17 York County District Attorney's office.

18 We are here today for your  
19 deposition in the matter of Joseph Cracco  
20 versus City of New York which is a civil  
21 suit that is currently pending in Federal  
22 Court in the Southern District of New York.  
23 The Plaintiff is Joseph Cracco and the only  
24 remaining Defendant is New York County  
25 District Attorney Cyrus Vance and I am the

1 J. SIPPEL

2 A. That it was essentially that  
3 what he was arrested for is not actually  
4 the case, that the knife was not a gravity  
5 knife. When it happened, the officer  
6 explained of why he was -- of why he pulled  
7 him out of the crowd and started to explain  
8 about the knife, and then it just seemed  
9 what he was telling us what it was he had  
10 trouble doing. So my understanding is that  
11 because of the way it was handled and that  
12 it really isn't a gravity knife, that that  
13 is what they are fighting.

14 Q. You mentioned that the officer  
15 explained to you something about the knife;  
16 right?

17 A. Correct.

18 Q. You are referring to Officer  
19 Correa who arrested Mr. Cracco; correct?

20 A. Yes.

21 Q. What did the officer explain to  
22 you about the knife?

23 A. That first he pulled him out of  
24 the crowd because he had the clip showing  
25 and he explained that that was illegal in

1 J. SIPPEL

2 New York City because it was showing a  
3 weapon essentially, and then when he took  
4 it from him, after he asked him what did he  
5 have it for, what was he using it for, that  
6 he didn't know if he was using it to hold  
7 someone up in the station or not. Joe  
8 explained that it was for box cutting and  
9 essentially we were opening a market in a  
10 restaurant and opening boxes all day long  
11 and he had that pocket knife for many years  
12 as a work knife in the kitchen and whatnot,  
13 and that is when the officer went on to  
14 explain about a gravity knife, how it could  
15 flip open and that --

16 Q. For the record, can you  
17 describe the motion that you just made with  
18 your right wrist?

19 A. Like this (indicating). He  
20 said it has to be -- if you can get it to  
21 open like it is a free -- like that is what  
22 a gravity knife is, you use the gravity by  
23 flicking your wrist to get it to open.

24 Q. For the record, you were  
25 flicking your wrist in a downward motion

1 J. SIPPEL

2 away from your body?

3 A. Yes. He was doing this  
4 (indicating).

5 Q. So the officer explained to you  
6 that if a knife opened in that manner, then  
7 it would be a gravity knife and it would be  
8 illegal under New York law; correct?

9 A. To my understanding, to my  
10 remembrance, yes.

11 Q. Then you testified that the  
12 officer had trouble doing the motion that  
13 he described to you; correct?

14 A. Yes. It was kind of like he  
15 was explaining what it was. It was not  
16 working for him. It took multiple tries to  
17 actually get the knife to open. It did  
18 eventually open.

19 Q. When you say "multiple tries,"  
20 do you mean multiple flicks of the  
21 officer's wrist?

22 A. Yes.

23 Q. How many attempts did it take  
24 to open the knife?

25 A. I would say at least four, if

1 J. SIPPEL

2 not more. That is what made it kind of why  
3 Joe was kind of not arguing, but inquiring  
4 like what you are saying you can't even do  
5 and then it happened.

6 Q. So going back to your  
7 understanding of the nature of the lawsuit,  
8 you mentioned that you understand Mr.  
9 Cracco's claims to be based on the fact  
10 that the knife was not a gravity knife?

11 A. Or that he was wrongfully  
12 arrested for a gravity knife when it  
13 technically isn't.

14 Q. Are there any other issues that  
15 you understand this lawsuit to address,  
16 besides whether or not Mr. Cracco was  
17 falsely arrested?

18 A. No, because that is the only  
19 thing I was under the impression of him  
20 being arrested for, was for carrying a  
21 gravity knife in New York City.

22 Q. Are you aware that the District  
23 Attorney is also a Defendant in this  
24 lawsuit?

25 A. No, not until you told me that.



1 J. SIPPEL

2 Q. You are not sure if it is  
3 before or after the arrest, but it was  
4 around mid October?

5 A. Correct. We were working there  
6 months beforehand, but the actual opening  
7 date, it was either just before or just  
8 after.

9 Q. As of that date, you lived in  
10 Old Greenwich; correct?

11 A. Yes.

12 Q. With Mr. Cracco; right?

13 A. Correct.

14 Q. And your girlfriend?

15 A. Yes.

16 Q. How do you know Mr. Cracco?

17 A. We met in California working at  
18 a restaurant together. We were both sous  
19 chefs for a restaurant.

20 Q. Would you consider him a friend  
21 of yours?

22 A. Yes.

23 Q. What restaurant were you  
24 working at when you met him?

25 A. Quince.

1 J. SIPPEL

2 definitely in between 9th and 10th on 37th.

3 Q. What was your position at  
4 Brooklyn Fare?

5 A. Executive chef.

6 Q. What were your  
7 responsibilities?

8 A. Overseeing of the market, of  
9 the prepared foods, as well as executive  
10 chef of the restaurant that was to be  
11 opened.

12 Q. I believe you testified that  
13 the restaurant never opened?

14 A. No.

15 Q. Did there come a time when you  
16 stopped working at Brooklyn Fare?

17 A. Yes.

18 Q. When was that?

19 A. March of 2014.

20 Q. Why did you leave?

21 A. Because they decided to go a  
22 different direction with the restaurant.  
23 They wanted to stay with Japanese aesthetic  
24 and I am an Italian chef. The original  
25 Brooklyn Fare is Japanese. They wanted a

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J. SIPPEL

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Mediterranean restaurant, that is what I

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was hired for. As the restaurant kept

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getting postponed and drawn out, postponed

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and postponed, they told me they were going

6

to forgo with the Mediterranean restaurant,

7

that they were going to just bring Brooklyn

8

Fare to Manhattan and stay with the

9

Japanese aesthetics, but it still has never

10

happened.

11

Q. As of October of 2013, what was

12

Mr. Cracco's position at Brooklyn Fare?

13

A. Sous chef.

14

Q. What were his responsibilities

15

as a sous chef?

16

A. Essentially the restaurant

17

wasn't open, so there was -- we were

18

testing dishes for the soon to be opened

19

restaurant as well as just production of

20

all of the prepared foods in the market.

21

Q. So was he primarily cooking

22

would you say?

23

A. Yes.

24

Q. Did he have any other

25

responsibilities?

1 J. SIPPEL

2 A. Overseeing of cooks. The  
3 kitchen is a brigade system, like a  
4 military system where there is an executive  
5 chef, then sous chefs, then chef de  
6 parties, then it kind of just trees out.  
7 So any cook would be underneath a sous  
8 chef.

9 Q. So Mr. Cracco --

10 A. Second in command. Sorry to  
11 interrupt. Second in command essentially  
12 is what a sous chef is.

13 Q. Thank you. So in October of  
14 2013, Mr. Cracco's responsibilities  
15 included cooking and supervising other  
16 chefs?

17 A. Correct.

18 Q. And you would of been Mr.  
19 Cracco's boss; correct?

20 A. Yes.

21 Q. As the executive chef?

22 A. Correct.

23 Q. To your knowledge, did he have  
24 any other job responsibilities in October  
25 of 2013, besides cooking and supervising

1 J. SIPPEL

2 the other chefs that were in the kitchen?

3 A. Like as things came into the  
4 market, we were essentially -- like the  
5 restaurant was being built as we were going  
6 on. So overseeing all incoming orders to  
7 the market, as well as purchasing for when  
8 we bought, you know, pots and pans and  
9 things like that for both the market and  
10 for the restaurant. We essentially stocked  
11 the restaurant as it was being built for a  
12 restaurant to open, then it never opened.

13 Q. Can you take me through what  
14 you did on the morning of October 18, 2013,  
15 starting with when you first woke up, to  
16 the best of your recollection?

17 A. I really don't, I really don't  
18 remember. I was taking the 4:40 train  
19 every morning.

20 Q. 4:40 a.m.?

21 A. Yes, to get to work or to get  
22 to work in Hells Kitchen at 6:15 a.m. It  
23 is an hour train ride to Grand Central,  
24 then take the shuttle over to Times Square,  
25 then walk to West 37th.

1 J. SIPPEL

2 that came daily.

3 Q. So it is possible an order came  
4 in that day, but you couldn't recall for  
5 sure?

6 A. I would say yes. I cannot say  
7 for sure, but chances are, yes, we received  
8 orders almost daily.

9 Q. Did there come a time when you  
10 left work?

11 A. Did there come a time when we  
12 left work?

13 Q. Yes.

14 A. We left work like in the  
15 afternoon. I would say sometime after 4:00  
16 to walk to the shuttle to go to Grand  
17 Central.

18 Q. You left with Mr. Cracco;  
19 correct?

20 A. Correct.

21 Q. You mentioned that you went to  
22 the shuttle. Which train is that?

23 A. At the Port Authority. It is  
24 the shuttle train that runs back and forth  
25 from Grand Central and Port Authority.

1 J. SIPPEL

2 Q. You took that to Grand Central?

3 A. Correct.

4 Q. You got out at the platform at  
5 Grand Central?

6 A. Then right, it was right in  
7 where that platform ends, the L Train,  
8 right as you are coming up the stairs, that  
9 was where the officer pulled us over.

10 Q. When did you first notice  
11 Officer Correa?

12 A. When he came, he kind of  
13 like -- we wouldn't notice when we were  
14 walking up. He approached us, excuse me,  
15 can you come over to the side with me? As  
16 far as I remember.

17 Q. Did he say that to both of you  
18 or did he just say that to Mr. Cracco?

19 A. Just to Joe.

20 Q. Where were you in relation to  
21 Mr. Cracco when Officer Correa approached  
22 him?

23 A. We were together, but as they  
24 were going on, I kind of could tell that it  
25 was a conversation between those two, so I

1 J. SIPPEL

2 was off to the side a little bit.

3 Q. Was the subway platform  
4 crowded?

5 A. It was at the time when it  
6 happened, but then it cleared out because  
7 as they were speaking and we were maybe  
8 there 20 minutes of discussion, the L Train  
9 comes like every ten minutes or so. So it  
10 went from being very busy to when he was  
11 pulled aside to clearing out somewhat.

12 Q. When you say you were standing  
13 to the side, what exactly do you mean?

14 A. I was probably -- I mean I was  
15 with him for a little bit, then he pulled  
16 him over even more, like off, and that is  
17 when I was standing by the stairs and they  
18 were over by the wall.

19 Q. Were you standing on the stairs  
20 or by the stairs?

21 A. I think I was by the stairs.

22 Q. Had you started to go up the  
23 stairs at all?

24 A. I honestly don't remember.

25 Like I said, for 20 minutes or so, like



1 J. SIPPEL

2 didn't -- that came off wrong. Joe was  
3 trying to explain his case to the officer.

4 Q. At any point, did you say  
5 anything to the officer?

6 A. The officer may have -- I don't  
7 remember for certain, but he may have asked  
8 where we were coming from or what we were  
9 doing, but I was not -- like he was not  
10 questioning me as he was questioning Joe.

11 Q. You overheard the officer  
12 explain to Joe that if the knife opens by a  
13 flick of the wrist, then it is a gravity  
14 knife; correct?

15 A. Correct.

16 Q. Then you saw with your own two  
17 eyes that the officer could not, in fact,  
18 open the knife as he described; correct?

19 A. Correct.

20 Q. It took him multiple attempts;  
21 correct?

22 A. Correct, but the knife did  
23 eventually open.

24 Q. After the fourth or fifth  
25 attempt I believe you testified?

1 J. SIPPEL

2 A. Yes.

3 Q. Was the officer employing the  
4 wrist flick with increasing aggression as  
5 he was attempting to open it?

6 A. Yes, the first two as he was  
7 trying to show it not opening. It took a  
8 little more force, that is when he finally  
9 got it. It got harder as he kept trying to  
10 prove his point.

11 Q. So he applied more and more  
12 force to open the knife?

13 A. Yes.

14 Q. Besides Officer Correa, were  
15 there any other police officers present?

16 A. No.

17 Q. What happened after Officer  
18 Correa handled Mr. Cracco's knife?

19 A. After he proved his point or  
20 tried to after he showed him that it  
21 happened, that is when I believe that he  
22 said he was under arrest, to my knowledge.

23 Q. What happened next?

24 A. As he started getting cuffed, I  
25 essentially said I will see you later and I

1 J. SIPPEL

2 question is, to your knowledge, did he ever  
3 work on the motorcycle while you were  
4 living together?

5 A. Not to my knowledge.

6 Q. To your knowledge, did he carry  
7 the knife around with him often?

8 A. Yes, but I don't know if he  
9 always had it on him, but yes, I would say.  
10 Like I said earlier, if we knew we needed a  
11 box cutter or something, you can ask Joe  
12 and he would usually have a pocket knife.

13 Q. How would he carry it usually?

14 A. Clipped on his pocket with the  
15 clip showing, exposed.

16 Q. Did you have a box cutter at  
17 the restaurant?

18 A. There were some upstairs.  
19 Those were more up in the market area where  
20 we are down in the kitchen, which is the  
21 lower level.

22 Q. Could they have been brought  
23 down to the kitchen?

24 A. Yes, they could have been.

25 Q. Were there scissors available

1 J. SIPPEL

2 to open the boxes that were coming to the  
3 restaurant?

4 A. There were scissors in the  
5 kitchen as well. They were used many times  
6 to open boxes. That is why I would usually  
7 tell -- maybe the dishwashers would grab  
8 chefs knives and I would try to tell them  
9 to use a pair of scissors or to use  
10 something duller, anything but the chef  
11 knives, and Joe had a pocket knife which  
12 was used many times as well.

13 Q. Are you aware that the District  
14 Attorney's office filed charges against Mr.  
15 Cracco in connection with his arrest?

16 A. No. Well, I knew he was  
17 arrested for the gravity knife and I  
18 thought that it had been settled.

19 Q. Have you ever seen a copy of  
20 the criminal complaint that was filed  
21 against Mr. Cracco?

22 A. No.

23 Q. I am going to show you what was  
24 used as Exhibit B at the deposition earlier  
25 today. I don't have another copy.

1 J. SIPPEL

2 MR. MALONEY: That's okay.

3 Q. I am showing you what was used  
4 as Exhibit B at Mr. Cracco's deposition. I  
5 am just going to ask you to take a minute  
6 to read it over.

7 A. Okay. That's essentially what  
8 I remember, the officer telling Joe what he  
9 was being arrested for.

10 Q. So you have had a chance to  
11 review the document; correct?

12 A. Yes.

13 Q. The document is signed by  
14 Officer Correa; correct?

15 A. Correct.

16 Q. And it reflects the fact that  
17 Mr. Cracco was arrested on October 18,  
18 2013; correct?

19 A. Correct.

20 Q. And I want to turn your  
21 attention to the factual allegations in the  
22 document which are in the final full  
23 paragraph before it mentions false  
24 statements made in this document are a  
25 crime. Can you just read aloud that

1 J. SIPPEL

2 sentence for me.

3 A. "I know that the knife was a  
4 gravity knife because I opened the knife  
5 with centrifugal force by flicking my wrist  
6 while holding the knife thereby releasing  
7 the blade which locked in place by means of  
8 an automatic device that did not require  
9 manual locking."

10 Q. Are those factual allegations  
11 by Officer Correa true?

12 A. Yes, he opened the knife, but  
13 he doesn't say how many times it took, but  
14 yes, he did open the knife with centrifugal  
15 force.

16 Q. The document omits the fact  
17 that it took him multiple attempts to open  
18 the knife?

19 A. Correct.

20 Q. Would you say it is misleading  
21 that it took him multiple attempts to open  
22 the knife?

23 A. I would say it is misleading  
24 because it sounds as if he opened it on the  
25 first try.